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ABSTRACT

This paper presents an overview of legislative developments and policy debates that occurred in Maryland during 1994-95 and their effects on school finance. These developments include: (1) the election, by a narrow margin, of a new Democratic governor who promised to restore state cuts in educational expenditures; (2) the increase of minority-party power in the state legislature; (3) the enhanced role of the Maryland State Teachers Association in state-level decision making; (4) the debate over who should control education--professional lay boards or elected political leaders; (5) the effect of stricter Internal Revenue Service (IRS) standards for independent-contract employees; and (6) controversy generated by the American Civil Liberties Union's (ACLU's) charge that the state fails to adequately fund Baltimore City Public Schools. Maryland schools have received funds at the rate of projected increases. A conclusion is that although state-aid formulas need to be revised, education funding is unlikely to change until the size of the state income-tax reduction and future revenues are known. (LMI)

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School Finance in Maryland, 1995

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- New Governor elect with sight less than 7,000 popular vote majority statewide and vote majority in only three subdivisions.
- Numerous new legislators of both parities elected and minority party increases members to 41 of 188 members in both state chambers.
- Maryland State Teachers Association (MSTA) plays an enhanced role in state decision - making.
- Who should control education ? Profession lay boards, elected political leaders.
- Is the United States Internal Revenue Services opposed to privatization ?
- Does the State inadequately fund Baltimore City Schools as the American Civil Liberties Union (ACLU) affirms?

Most Legislation in Maryland takes place in the second session of a legislature, and this is especially true as the elect ion of 1994 when a new Governor is elected and the legislature has an extensive change in membership. On the other hand, a new Governor usually has his high priority items passed in the. first session. This did not occur on the 1995 legislature.

The outgoing Governor presented a budget with state expenditures growing 2 percentage points faster than revenue. The promise of the defeated gubernatorial candidate to cut income taxes by 6 percent a year a 25 percent reduction over the four year term of the governor, the closeness of the election, and the promise of the successful candidate to restore state expenditure cuts in education and elsewhere in state government made finding of revenues to meet expenditures the major task of the Governor and the legislature.

Public elementary and secondary education fared well in the budget battle, especially in state funds for new construction. Most other areas of contention remain and the strength of the varied actors remains to be determined.

The November 1994 Election

The Maryland voters had a clear choice in November of 1994 between a Republican candidate who would reduce personal income taxes 25 percent over her four -year term and a Democratic candidate who spoke, among other things, of undoing the cuts to schools of almost $250 million of state money during the preceding four years. Within such a clear choice between tax decreases and expenditure increases, the electorate was almost evenly divided. The newly elected Democratic Governor Parris G. Glendenning obtained a majority of the voters in Baltimore City, Montgomery County and his home county of Prince George's His statewide majority was 6,721 votes.

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The voting procedure, the vote counting, and the election results were challenged in court. The period between November and January created uncertainty. The court ruled in favor of the certified election results and an appeal of the decision by the losing candidate was not made, as it could be, the day before the inauguration of the Governor.

The Snack Tax

In his State of the State address the Governor called for among other things the repeal of the five percent tax on salty snacks. Frito-Lay reportedly threatened not to expand in Hartford County Maryland by 560 jobs if the tax were not repealed. Many long standing companies in Maryland like McCormick Co. which sold spices to Frito-Lay lobbied for the snack tax repeal. The legislature in protest of the supposed threats did not repeal the tax and Frito-Lay did not bring the jobs to Maryland. The Governor sought repeal of the tax because it portrayed Maryland as anti-business.

The importance of the snack tax not being repealed is largely symbolic. Its role in producing revenue is not of great importance. The legislature and in particular the revenue committees of the Senate and House and their leaders saw it as a place to indicate independence and power. It is not clear whether these groups sought to be independent of the Governor or if they wanted to show they were not beholden to special lobbying interests. In a way, the snack tax battle indicates the redrawing of turf that takes place when there is the changeover in members of the legislature, and a new Governor.

The Professional Standards Board

Another promise of the Governor was the removal of the veto power that State Board of Education has over the Professional Standards Board. This measure passed the Senate 27 to 20 but was defeated in the House. The Governor had supported MSTA in this legislative change. MSTA had wanted a separate and independent Professional Standards Board over which the State Board of Education would not have veto power. It was a "must" for its 1995 legislative session.

In his bid for the governorship, Dr. Glendenning had been supported not only by the local units of state unions representing local government employees in Prince George's County, where he had been County Executive but also by the statewide groups of local government employees. Among these supporters was MSTA. With the narrow margin of victory for the governorship, these supporting groups seem to have influence. MSTA's influence seem to exist in the Governor's July 1, 1995 appointments to the State board of Education. One, Morris Jones, is a former associate executive director for MSTA. Another, Walter Sonnheim headed a commission on the governance of education. His interview in the April, 1995 Action Line, the MSTA newspaper, seems to indicate he is on cordial relations with teachers.

To many educators, State Board of Education vetoes of Professional Standard Board decisions seem in the best interest of education. Others answer that the groups who lobby the State Board of Education have to do so because their representatives do not take their role on the Professional Standards Board seriously as witnessed by attendance and participation. Who or what is to blame for the vetoes and method of operation is not clear.

Evidence gathered from other states where the Professional Standards Board is independent does not show clear evidence for the change. Neither does the evidence refute the claimed benefits. The present arrangement seems to have served Maryland well but an equal State Board of Education and Professional Standards Board would not seem to serve the state and its schools less well.

Once again the symbolism of the legislation rather than the substance may be more important. Who lost is not clear. Was it MSTA? Was it the Governor? Who won is not clear. Was it the State Board of Education? Was it the House of Delegates leadership? As

patterns develop in the second session of the legislature next year a clearer picture might emerge.

Who should control education?

In Baltimore City, the Mayor appoints the school board members and the school system, like all in Maryland, is fiscally dependent but, unlike all, is a department of city government. In about half of the 24 counties, the governor appoints school board members but the operation of schools is independent of county government. In home rule and charter counties, -- the other half--, school board members are elected.

During the past decade, there has been a movement to make education a unit of the county government. In the 1995 legislative session, Wayne K. Curry, present County Executive of Prince George's County was the only one to testify favorable for a bill designed to make schools a department of county government in this county. A Public Citizen Task Force headed by Admiral Stansfield Turner had recommended the idea earlier. Former Governor Shaeffer had treated the Secretary of Education as if she were the head of another executive department.

Whether education should be controlled by a lay board with its own chief executive and be independent, or whether the lay board and its chief executive should be responsible to a politically elected official and be advisory has been tested constantly in recent years. The Governor with his Political Science background seems to prefer an advisory and not an independent State Board of Education. Educators have long held for an independent Board. The debate about the place of the Professional Standards Board was engaged at two very different levels. One asked questions about the relationship of education to general government. The other asked who should speak for schools: should the spokesmen be only teachers, be educators other than teachers, or be a jointed group of teachers and others.

Contractor or Employee

Maryland school systems have long contracted for the transportation of pupils. In recent years, some Maryland school systems have contracted with private firms for food services and for the cleaning of buildings . Since 1992, Baltimore City Public Schools have contracted the entire operation of nine schools including the instruction component with Alternative Education Inc. (AEI). The third year of operations is being completed.

When any school fails to meet state performance standards after being assisted by the State with more funds and the State board of Education makes it a candidate for reconstitution, the local school system can first propose a plan to improve test scores of students. If that fails or is unacceptable, private firms can propose plans to have the school succeed in meeting state achievement test score requirements. Thus, privatization of school services is being experimented in many different services across the State.

This movement in Maryland and potentially nationwide had a serious setback when the Internal Revenue Service (IRS) with its rulings under the revenue acts of the 1980's tightened standards for independent contract employees. In two small counties of Maryland's Eastern Shore, the IRS has ruled that school bus contracts do not deal with independent contractors because of the condition of the contract. IRS has ruled that these bus drivers (contractors) are school employees entitled to benefits of school employees. Thus, the school system needs to pay workmen's compensation, unemployment insurance, Employer Social Security tax on earnings to the government as well as fines , penalties, and interest on back taxes. Contractors (drivers) are entitled to the same health benefits and retirement plans as other employees. The contractor bus driver association and their lawyer like the idea of getting health and retirement benefits and side with IRS. School systems are appealing the IRS decisions through legal channels. However, if the present IRS ruling holds, local school systems will need to pay back taxes, fines, and penalties and will face an uncertain future as to what other employee benefits are necessary. Furthermore, it is

unclear as to how one might contract for services as schools presently do and avoid all "contractors" being classified as "employees". It seems that this battle will take not only court action and appeals but eventually remedial action by the Congress.

What is Adequate Funding?

The Hutchinson Commission on School Finance in 1993-1994 found that an adequate level of funding was the average per pupil spending in school systems which met the Maryland School Proficiency Performance (MSPP) standards. Such legislation was introduced in both 1994 and 1995 legislature under a number of formats. None passed but the idea was kept alive in the legislature process.

The American Civil Liberties Union (ACLU) has it's concept of adequate funding, and especially so for Baltimore City. It has filed a law suit against the Governor and the State Board of Education for adequate funding for Baltimore City on behalf of eight parents. In matters so far, the Attorney General has removed the Governor from the suit with the argument that the State Board of Education is the primary legal entity for education and it advises the Governor. The Attorney General also had Montgomery County and its school system removed from the case as friend of the court because the question was not about the distribution of a fixed and absolutely finite determined sum of money in which if Baltimore City received more then Montgomery would receive less but it was only about the adequacy of Baltimore City's amount which could be solved by increasing total funds provided by the State.

State Funds for Schools

While local counties and the city of Baltimore have maintained the effort of education funding required by state law, many local funding counties are facing local revenue short fills to continue present service levels for non education services. Both Montgomery and Prince George's County have asked for new taxing powers and have cut local services for 1995-96 budget year. State delegates and senators were defeated in Montgomery County in November 1994 because they were seen as having a statewide view of state funds rather than a parochial view of state funds only for Montgomery County. These views will become paramount as any new state aid scheme is addressed because of a study group or court action. These views will affect any attempt at new state revenue.

Within the context of competing pressures for funds, an uncertain Federal role and appropriation, attacks by the IRS and the Courts, schools in Maryland received funds at the rate of projected increases. Construction funds may very well be the most available in two decades. Localities have maintained the effort required by law despite state cutbacks. Some major change in the state-aid formula is needed. Like many other changes in state government , a formula change depends on revenue. The 1995 legislature attempted but did not pass an income tax reduction. The major item of passage next year with support of the Governor and legislature is an income tax reduction. Until its size is determined and revenue then available is known, little change in education funding is likely.